IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 392 OF 2006

Nandalal Bhau Bhagade
and 3 others ...Applicants.

V/s

The State of Maharashtra ...Respondents.

Mr. Rajendra Shirodkar for the applicants.
Mr. R.Y. Mirza, APP for the State.

CORAM: V.M. KANADE, J.

DATE: 10th March, 2006

P.C:

1. Heard the learned Counsel for the applicant and the learned APP for the State.

2. The applicants are arrested in connection with C.R. No.98 of 2004 registered at Igatpuri Police Station for the offence punishable under section 302 and the other provisions of the Indian Penal Code.

3. It is alleged that 27 persons assaulted the deceased with various weapons and as a result of the said assault, the deceased died. Out of 27 persons 23 persons have been released on bail.

4. It is submitted by the learned Counsel for the applicants that so far as the applicants are concerned, they have been falsely implicated and there was no motive to assault Hiralal. The proseution case is that all the assailants had a grudge against the brother of Hiralal who, it was alleged, had not given employment to the local villagers in the factory where he was employed. It is submitted that both, Hiralal and his brother Mulchand were anguished by these 27 persons. He submitted that there was no occasion or reason for these persons to assault Hiralal when they had a grudge against Mulchand. It is furhter submitted that the statements of witnesses are not corroborated by the medical evidence. The learned Counsel submitted that the medical evidence shows that there were contused lacerated wounds on the head of the deceased and that these wounds could not have been caused by stones as the injuries which would be caused by the stones would be clear-cut marked injuries. He submitted that the other accused have been released on bail on certain condtions and they have not tampered with the evidence. He submitted that same conditions may be imposed on the present applicants as were imposed on the other accused.

5. It is not possible to accept the submissions made by the learned Counsel for the applicants. The post-mortem notes indicate tht there were as many as four injuries on the head of the deceased and that the brain had come out of the skull at two places. There are as many as four witnesses to the said incident. The role of the present applicants has been described by these eye witnesses as the persons who assaulted the deceased with swords and stones. Therefore, this is not a fit case for grant bail. The application for bail is rejected.

6. The learned APP has stated that the charge-sheet has been filed and the matter was ready for hearing. Considering the facts and circumstances of the case, the trial is expedited. The Trial Court may decide the case as expeditiously as possible.

7. Application is accordingly disposed of.

V.M. KANADE, J.